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9 Attorneys for Defendants
10 ESTABLISHMENT LABS HOLDINGS INC.
(erroneously sued as ESTABLISHMENT
11 LABS INC.) and
12 MOTIVA USA LLC

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 RAMIN KHADEM,

16 Plaintiff,

17 v.

18 ESTABLISHMENT LABS INC.,
19 MOTIVA USA LLC, and DOES 1-50
inclusive,

20 Defendants.
21

Case No. 2:23-cv-1044

**NOTICE TO FEDERAL COURT OF
REMOVAL OF CIVIL ACTION
FROM STATE COURT**

1 the Age Discrimination in Employment Act (“ADEA”); (5) failure to prevent
2 discrimination and harassment in violation of the FEHA and ADEA.

3 On February 10, 2023, Defendants filed and served an answer to Plaintiff’s
4 Complaint. A true and correct copy of Defendants’ Answer is attached hereto as
5 Exhibit B.

6 Pursuant to 28 U.S.C. § 1446(d), the attached exhibits constitute all the process,
7 pleadings and orders served upon Defendants or filed or received in this action by
8 Defendants.

9 II.

10 FEDERAL QUESTION JURISDICTION EXISTS

11 1. This Court has original jurisdiction over this matter because it arises
12 under the laws of the United States. 28 U.S.C. § 1331.

13 2. “The district courts shall have original jurisdiction of all actions arising
14 under the Constitution, laws or treaties of the United States.” 28 U.S.C. § 1331. In
15 deciding whether a suit arises under federal law, the district court must abide by the
16 “well-pleaded complaint” rule, under which a suit arises under federal law only when
17 the plaintiff’s statement of his own cause of action shows that it is based on federal
18 law. *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987).

19 3. This case plainly arises under federal law. Plaintiff’s Complaint arises
20 out of purported alleged violations of federal statute 29 U.S.C. 626(e). Specifically,
21 Plaintiff’s Complaint asserts that Defendant violated the ADEA by allegedly harassing
22 Plaintiff and/or creating a hostile work environment. (*See* Exhibit A (Complaint) at ¶¶
23 36-41.)

24 4. All other claims for relief under various California statutory and common
25 laws are within the supplemental jurisdiction of this Court under 29 U.S.C. § 1367(a),
26 because they are so related to the ADEA claims that they form part of the same case
27 or controversy under Article III of the United States Constitution. Plaintiff’s other
28 state law claims are all related to his ADEA claim since they “derive from a common

nucleus of operative fact and are such that a plaintiff would ordinarily be expected to try them in one judicial proceeding.” *Kuba v. I-A Agric. Ass’n*, 387 F. 3d 850, 855 (9th Cir. 2004). Jurisdiction is thus appropriate for all of Plaintiff’s claims that are transactionally related to the federal claim.

III.

TIMELINESS OF REMOVAL

5. This Notice of Removal is timely in that it has been filed within 30 days of the service of the Complaint on January 12, 2023. *See* 28 U.S.C. § 1446(b).

IV.

VENUE

6. The action is pending in the Superior Court of California for the County of Los Angeles. Venue properly lies in the United States District Court for the Central District of California, pursuant to 28 U.S.C. §§ 1391(a) and 1441(a).

V.

NOTICE TO PLAINTIFF AND STATE COURT

7. Contemporaneously with the filing of this Notice of Removal in the United States District Court for the Central District of California, written notice of such filing will be given by the undersigned to Plaintiff’s counsel of record. In addition, a copy of this Notice of Removal will be filed with the Clerk of the Court for the Superior Court of the County of Los Angeles, California.

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1 VI.
2 CONCLUSION

3 8. WHEREFORE, Defendants now pray that the above-entitled action now
4 pending against Defendants in the Superior Court of the State of California, County of
5 Los Angeles should be removed therefrom to this Court.

6
7 Dated: February 10, 2023

Respectfully submitted,
LITTLER MENDELSON, P.C.

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10
11 /s/ Heather M. Vigil
Heather M. Vigil
Shelley L. Murray

12
13 Attorneys for Defendants
ESTABLISHMENT LABS HOLDINGS
14 INC. (erroneously sued as
ESTABLISHMENT LABS INC.) and
15 MOTIVA USA LLC
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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18, and not a party to the within action. My business address is 18565 Jamboree Road, Suite 800, Irvine, California 92612.

On February 10, 2023, I served the foregoing document(s) described as:

**NOTICE TO FEDERAL COURT OF REMOVAL OF CIVIL ACTION
FROM STATE COURT**

on the interested parties by placing a true and correct copy thereof in a sealed envelope addressed as follows:

Robin Montes, Esq.
LAW OFFICES OF ROBIN MONTES
1114 Maryland Dr.
Vista, CA 92083
Phone: 760.945.3148
Fax: 760.945.7487

Attorney for Plaintiff RAMIN KHADEM

☐

VIA ELECTRONIC MAIL WHERE INDICATED: I served the foregoing document described by emailing to it each of the aforementioned electronic mail addresses and the transmission was reported as complete and without error. My email address is kgarcia@littler.com.

☒

BY MAIL: I caused such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Irvine, California. I am readily familiar with the practice of Littler Mendelson for collection and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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BY FACSIMILE: I caused said document to be transmitted to a facsimile machine maintained by the office of the addressee(s) at the facsimile machine number(s) indicated. Said facsimile number(s) are the most recent numbers appearing on documents filed and served by the addressee(s). I received electronic confirmation from the facsimile machine that said document was successfully transmitted without error. A copy of said electronic confirmation is maintained in this office.

☐

BY OVERNIGHT DELIVERY: I am readily familiar with the practice of Littler Mendelson for the collection and processing of correspondence for overnight delivery and know that the document(s) described herein will be picked up at Littler Mendelson's office by a Federal Express representative, or deposited in a box or other facility regularly maintained by the overnight delivery carrier.

☐

HAND DELIVERY: by directing _____ to personally deliver a copy of the document listed above to the person(s) at the address(es) set forth below.

☒

FEDERAL: I declare under penalty of perjury under the laws of the United States of America that the above is true and correct and that I took said action(s) at the direction of a licensed attorney authorized to practice before this Federal Court.

Executed on February 10, 2023, at Irvine, California.


Karla Garcia